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APPEARANCES CONT'D:

MR. MICHAEL S. PABIAN
10 South Dearborn Street, Suite 4900
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appearing for ComEd;

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>direct</u>	<u>Re-</u> <u>cross</u>	<u>By</u> <u>Examiner</u>
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None.

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
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None so marked.

1 JUDGE SAINCOT: By the authority vested in me,
2 I now call Docket No. 06-0525. It is the matter of
3 the Illinois Commerce Commission on its own motion
4 and it concerns consideration of the federal standard
5 on interconnection in Section 1254 of the Energy
6 Policy Act of 2005.

7 Will the parties identify themselves
8 for the record, please.

9 MR. LANNON: Appearing on behalf of the Staff
10 of the Illinois Commerce Commission, Mike Lannon and
11 Stefanie Glover, 160 North LaSalle Street, Suite
12 C-800, Chicago, Illinois 60601.

13 MR. PABIAN: For Commonwealth Edison Company,
14 Michael S. Pabian, P-a-b-i-a-n, 10 South Dearborn
15 Street, 49th Floor, Chicago, Illinois 60603.

16 MS. EARL: On behalf of Ameren CILCO, Ameren
17 CIPS and Ameren IP, Laura Earl with Jones Day, 77
18 West Wacker, Chicago, Illinois 60601.

19 MR. MOORE: On behalf of the Environmental Law
20 and Policy Center, John Moore and Bradley Klein, 35
21 East Wacker Drive, Suite 1300, Chicago, Illinois
22 60601.

1 MS. STEWART: On behalf of MidAmerican Energy
2 Company, Suzan M. Stewart and Karen M. Huizenga, 401
3 Douglas Street, P.O. Box 778, Sioux City, Iowa 51102.

4 JUDGE SAINSOT: Are there any further
5 appearances?

6 Okay. Let the record reflect that
7 there are none.

8 To begin with, just a reminder, you
9 all need to serve me with copies of filings. Those
10 who did, fine, but there were a few that didn't.

11 So the reason we're here today, I'm
12 sure you all know, is because the ELPC argued in its
13 brief on exceptions that the final date for this
14 Commission to come up with some sort of comprehensive
15 plan regarding interconnection -- regarding the terms
16 and conditions as well as the electric standard is
17 August 8th, 2007. And nobody filed a reply brief
18 contesting that.

19 So am I right that nobody disagrees
20 with that contention?

21 MR. MOORE: Well, I think, your Honor, it might
22 be worth again going back and looking at exactly what

1 PURPA now requires as a result of the Energy Policy
2 Act.

3 With your permission, I'd like to just
4 circulate --

5 JUDGE SAINSOT: Sure.

6 MR. MOORE: -- the language to Laurie, Mike and
7 Michael.

8 And I'm sorry for the folks who are on
9 the phone, I'm simply passing out copies of PURPA
10 Section 111 as amended by the Energy Policy Act.
11 And, I mean, the bottom line for us -- our position
12 is that some determination -- the Commission needs to
13 make a determination by August 8th, 2007. The
14 Commission does not need to by August 8th have a
15 final rule in place by August 8th.

16 The Commission, according to PURPA may
17 decide that nothing at all is necessary; although we
18 believe that if it were to do that, it would need to
19 make that decision based on, you know, a conclusion
20 that existing Illinois interconnection standards
21 already provide for the kind of requirements that are
22 in the Energy Policy Act.

1 That's sort of the bottom line. And
2 where we get there is by looking at PURPA Section 111
3 or Section 1254 of the Energy Policy Act, which says
4 that by August 8th, 2007, the Commission should
5 consider each standard, established elsewhere in
6 Subsection D of the section, and make a determination
7 concerning whether or not it is appropriate to
8 implement such standard to carry out the purposes of
9 the chapter.

10 And there are a number of different
11 standards that need to be addressed. We're
12 familiar -- we had a couple of other dockets in
13 with -- involving time of day of metering, I believe,
14 and whatnot. One of these is entitled
15 "interconnection" and it makes it quite clear that
16 the federal standard quote, unquote is to include
17 standards based or developed by I triple E, this 1547
18 standard. And it says, In addition, agreements and
19 procedures shall be established whereby the services
20 offered shall promote current best practices of
21 interconnection.

22 So it seemed clear to us that Congress

1 is saying that whatever the Commission decides to do,
2 it should include 1547. Again, assuming that the
3 Commission decides to do something. And it should
4 include best practices as determined by model codes
5 and other such things.

6 That's the substance as to what should
7 happen by August 8th. You know, we go back to the
8 Section 2621 A, which says, number one, you make a
9 determination concerning whether or not it is
10 appropriate to implement the federal standard, which
11 includes those two parts.

12 It also says that nothing prohibits
13 the state from determining that it is not appropriate
14 to implement any such standard, which, again,
15 includes 1547 plus the best practices.

16 However, you know, it's our
17 position -- it doesn't say this in the statute, but
18 it's our position that if you were to conclude that,
19 you'd need a rational basis for concluding that no --
20 you know, that not adopting that standard is legal
21 under state law.

22 So, you know, from our perspective, it

1 would be fine to be able to conclude by -- to make
2 issue some sort of determination -- issue an order of
3 some sort, whether or not it's an interim order or
4 some other order, by August 8th that says, you know,
5 This is the plan we have in place to do this. We
6 believe that something is necessary and this is what
7 we are going to do.

8 We do not believe -- I think we've
9 never said this in our pleadings that -- you know, a
10 final rule needs to be issued and approved and
11 nonappealable by August 8th.

12 JUDGE SAINSOT: Right. And that you really, I
13 think, answered my next question. And because we're
14 lawyers and what we do by definition is try to push
15 deadlines back, my next question would have been,
16 What exactly do we have to have? And what I'm taking
17 you to mean is something in writing?

18 MR. MOORE: Right. I think, your Honor, that
19 we had -- you had established a trial date, I
20 believe, sometime in July. The way this could move
21 forward in my view -- in ELPC's view is that we could
22 either reach a consensus and there would be no need

1 for a contested case proceeding, or we would not
2 reach a consensus on one or more issues. We might be
3 able to settle some of the issues and then we would
4 reserve some subset of issues for a contested, which
5 would require, as I believe it to be, the full, you
6 know, briefing expert testimony, rebuttal briefs,
7 draft order and all of that sort of thing.

8 I do not believe that all has to be
9 done by August 8th --

10 JUDGE SAINSOT: Okay.

11 MR. MOORE: -- 2007. I, you know --

12 JUDGE SAINSOT: I don't think you're going to
13 get a lot of argument.

14 MR. PABIAN: No.

15 MR. MOORE: But I do think you need a -- you
16 know, a legally defensible decision of some sort by
17 August 8th, 2007, an order, an interim order or
18 something --

19 MR. PABIAN: Right.

20 MR. MOORE: -- that --

21 JUDGE SAINSOT: Mm-hmm.

22 MR. MOORE: -- again, says, Okay, we've

1 determined that this needs to be done and we're doing
2 this.

3 JUDGE SAINSOT: Okay. I'm a little
4 uncomfortable with the current schedule as I know it.
5 So I'm going to leave you alone for a few minutes.

6 One thing I might suggest -- and,
7 again, this might be totally stupid. So feel free to
8 reject it because you know what you're doing better
9 than I do; but instead of having a Staff report,
10 maybe some kind of proposed rule demonstrating the
11 Staff report or something saying, you know, We're
12 going to tariff or whatever, something that reflects
13 what the party's position is on something rather than
14 giving a detailed analysis, just saying, Well, we all
15 agree about this, but it would be a proposed rule or
16 a proposed something to be in an order --

17 MR. PABIAN: Right.

18 JUDGE SAINSOT: -- or something like that that
19 could have a little more finality than a Staff
20 report, I guess my point is.

21 MR. PABIAN: Okay.

22 JUDGE SAINSOT: Okay. But, again, you might

1 find that that's not doable, and that's fine, too,
2 because you know your cases better than I do.

3 MR. LANNON: Your Honor, just so I'm clear
4 before you leave the room, this Staff report you've
5 just mentioned, what if it articulated everything we
6 had agreed upon and everything we hadn't, which would
7 then be what we would have to address subsequently?

8 MR. PABIAN: You're right.

9 JUDGE SAINSOT: That sounds lovely to me, but I
10 don't know --

11 MR. MOORE: Right. And I think --

12 JUDGE SAINSOT: I mean, it's perfect for
13 someone sitting in my job.

14 MR. LANNON: All right.

15 MR. MOORE: Again, one idea we had was that
16 instead of having the workshop next week, we would
17 have almost a settlement-type conference or a meeting
18 among the parties.

19 I hope the people on the phone can
20 hear me.

21 JUDGE SAINSOT: Can you hear?

22 MS. STEWART: That's fine.

1 MR. MOORE: Okay. Good.

2 To help -- we need to figure out what
3 those issues are that we agree on. And so that would
4 be an initial suggestion there.

5 JUDGE SAINSOT: You have one next week and then
6 when's the next one?

7 MR. LANNON: The 25th right now. April 4th for
8 the first one, which is next week Wednesday;
9 April 25th; and then May 16th was the third one we
10 had scheduled.

11 JUDGE SAINSOT: Okay. Is it possible -- one
12 thing that occurs to me -- and I think I probably
13 should leave you alone just to probably talk things
14 out, but if you wait too long between the one on
15 April 4th and April 25th, it just seems to me that if
16 you've got all these things going here and you're
17 talking about what you're -- what you agree on and
18 what you settle on, you might forget if it's three
19 weeks later.

20 MR. PABIAN: Should we move it up to, like, two
21 weeks?

22 Because I think some of the -- I think

1 there needs to be some time in between. And the
2 reason I say that is people may have -- one party may
3 have good ideas, but the other party says, Well, I
4 gotta go back and there's people I need to talk to.

5 So you're going to need some --

6 JUDGE SAINSOT: Right.

7 MR. PABIAN: -- some time in between to go back
8 and digest and, you know, maybe actually come to an
9 agreement about what another party has proposed.

10 So how about -- does two -- you know,
11 maybe two -- having two weeks between the sessions
12 instead of -- what do we have now? Three, I think;
13 is that right?

14 JUDGE SAINSOT: Staff?

15 MR. LANNON: Well, we can go off the record to
16 pick an exact date. I think we're still on the
17 record, aren't we?

18 JUDGE SAINSOT: Right. Yeah, we could probably
19 go off the record for a minute.

20 (Whereupon, a discussion was had
21 off the record.)

22 JUDGE SAINSOT: We're back on the record and

1 the parties have agreed to the following schedule,
2 which will modify the previous schedule: April 4th,
3 the workshop in Chicago; April 18th, the workshop in
4 Springfield; May 2nd, a workshop in Chicago.

5 And what time are those commencing?

6 Do we know?

7 MR. LANNON: A good question.

8 MR. MOORE: We're starting at 9:30.

9 JUDGE SAINSOT: 9:30. And the parties have
10 agreed that if those dates don't exactly work out,
11 they will change them amongst themselves.

12 Okay. Their Staff report will issue
13 on May 23rd. And a status hearing will be conducted
14 on June 5th.

15 We have kept the tentative -- or the
16 trial date that was previously set of July 10th as a
17 tentative trial date. And at the June 5th status
18 hearing, we will determine whether that trial date is
19 necessary.

20 Anything that should be added?

21 MR. LANNON: Your Honor, do we want to pick a
22 time for the status on the 25th (sic)?

1 MR. MOORE: On the 5th it's at 11:00 a.m.

2 JUDGE SAINSOT: 11:00 a.m., yeah.

3 MR. LANNON: Yeah, it's the 5th.

4 MR. MOORE: Yeah, 11:00 a.m.

5 JUDGE SAINSOT: Yeah, but I should've said

6 that. Thanks.

7 Anything else?

8 It sounds like you all have things

9 that you want to talk about amongst yourselves. So

10 feel free to use this room.

11 MR. MOORE: Thanks.

12 MR. LANNON: Thank you, your Honor.

13 (Whereupon, the above-entitled

14 matter was continued to June

15 5th, 2007, at 11:00 a.m.)

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